



STATE MINING AND GEOLOGY BOARD

DEPARTMENT OF CONSERVATION

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CONFORMED MINUTES

THE STATE MINING AND GEOLOGY BOARD

Conducted a Regular Business Meeting on:

Thursday, May 10, 2012

9:30 A. M.

DRAFT

LOCATION:

Assembly Hearing Room #444

State Capitol

Sacramento, California 95814

AMENDED AGENDA

For questions regarding this Agenda, please contact the SMGB office by telephone at (916) 322-1082, or by facsimile at (916) 445-0738. This Notice and associated staff reports can be accessed electronically at the SMGB's Internet web site at: <http://www.consrv.ca.gov/smgb/> (note: Agenda reports should be available electronically approximately one week prior to the scheduled meeting/hearing date).

The SMGB requires that all lengthy comments be submitted in writing in advance of the meeting date where this matter is to be decided. To ensure that the SMGB has the opportunity to fully preview written material, comments should be received in the SMGB office located at 801 K Street, Sacramento, CA, 95814, no later than 5:00 P.M., 15 calendar days prior to the scheduled meeting date, and must identify the Agenda Item to which it relates. For written materials in excess of two pages, or that contains large maps, photos, foldouts, or other documents requiring special handling, please submit 15 copies. The SMGB will not reproduce these types of documents. Comments on Agenda Items will be accepted by electronic mail, and are subject to the same conditions set forth for other written submissions.

New submittals received after 15 calendar days prior to the scheduled meeting date will be marked as late, and the SMGB will decide whether new submittals will be considered or not during the public hearing. Late submittals, received by the SMGB at least 48 hours prior to the scheduled meeting, will be included in a late document submittal listing. Late submittals, received after 48 hours prior to the scheduled meeting, will not be included on the late document submittal list. The SMGB would

accept a two-page written summary of testimony, or final comments based on, and limited to, review of the SMGB's packet and/or Executive Officer's report, at the time of the public hearing. Such two-page summaries would be included as part of the administrative record before the SMGB. This policy does not apply to quasijudicial proceedings (i.e., appeals, petitions, etc.) where administrative procedures for the submittal of documents are set forth in statute and regulation.

Individuals are responsible for presenting their own projects at the meeting.

[NOTE: Times are approximate. The chairman may alter the hearing start time or agenda item order during the meeting.]

I. Call to Order (Garner)

II. Pledge of Allegiance

III. Roll Call and Declaration of a Quorum

The meeting was called to order at 9:40 A. M. by Acting Chairman Baca, and a quorum was declared.

IV. Director's Report (Nechodom, Department of Conservation) [Information]

Director of the Department of Conservation, Mark Nechodom, reported on the following:

- Director Nechodom welcomed the new SMGB Members and discussed potential for shared responsibilities within various Department of Conservation programs, and as it relates to many of the land use considerations before us.
- The SMGB will hear about recent efforts being set forth as it relates to aggregate availability in the near future.
- Consideration of the proposed elimination of the SMGB was not supported by the Senate during the recent budget hearings being conducted; whereas, at the Assembly budget hearing this matter was put on hold for further consideration.

• **State Geologist's Report (Parrish) [Information]**

State Geologist and Director of the California Geological Survey (CGS), Dr. John Parrish, reported on the following:

- A summary of recent outreach activities was provided including attendance of The Sierra Fund's Reclaiming the Sierra conference in Nevada City where CGS shared a booth with OMR, the 100 year anniversary gathering of the Girl Scouts, and a CalTrans hosed symposium in Redding on highway geology.
- CGS is relocating its offices at the USGS Menlo Park Campus, where office space is provided at no cost, and the savings go back into CGS programs. The USGS is also hosting its three year open house on May 19-20. There will be numerous booths and demonstrations and the public is welcome to attend and participate.
- CGS Strong Motion Instrumentation Program (SMIP) now has automatic processing capabilities which will allow earthquake information to be drawn upon online by stakeholders.
- Next week the Department of Conservation and CGS will be visited by the General Counsel of Japan.



- Office of Mine Reclamation Report (Pompy) [Information]

Assistant Director and Chief of the Office of Mine Reclamation (OMR), Jim Pompy, reported on the following:

- Mr. Pompy summarized his role on a panel discussion on Green Solutions for Cleaning up Abandoned Mines in the Sierra as part of the Sierra Fund's Reclaiming the Sierras conference recently held in Nevada City.
- About 1400 annual reports were mailed out to all surface mining operators. The reports can also be downloaded from OMR's website. The reports are due by July 1.
- The third inspection workshop is scheduled for May 29-30 in Napa.
- An internally inspection workshop was held at Cache Creek for OMR staff. The SMGB's Executive Officer also presented at the workshop.
- A re-structuring is being implemented to better utilize OMR's limited resources, notably within the Compliance and Reporting Unit.

V. Chairman's Report (Garner) [Information]

Chairman Garner reported on the following:

The Chairman met with Director Mark Nechodom and the SMGB's Executive Officer and discussed the activities and role of the SMGB, and the effort to eliminate the SMGB as proposed in the Governor's January 2012 budget.

VI. Executive Officer's Report (Testa) [Information]

Executive Officer Testa reported on the following:

- Thirty-two out of forty-five surface mining operations have been inspected, with inspection of all operations where the SMGB serves as a SMARA lead agency anticipated to be completed by end of year. In addition, thirty-four sites out of forty-five counties have been identified to date where a financial interest or conflict exists. Thirteen counties remain to be evaluated, along with a number of cities.
- A public complaint was received from Cliff McMillan in regards to Siskiyou County. Such complaint is being reviewed.
- Four regulatory rulemaking packages are in preparation. These pertain to the designation and termination of designation of certain sectors within the San Bernardino, Palm Springs, San Gabriel Production-Consumption Regions, and likely San Luis Obispo-Santa Barbara P-C Region.
- A revised slope stability analysis for the Super Creek Quarry, City of Desert of Hot Springs, was received in mid-February. A preliminary review has been completed by OMR and SMGB staff, with such comments forwarded to the operator. A meeting with the operator and his representatives is being scheduled.
- Several reports are in preparation including the summary report for the Alquist-Priolo Technical Advisory Committee efforts, and the Information Report pertaining to annual mine fees survey.
- On February 7, 2012, a presentation on "*Updating of Guidelines and Policies Pertaining to Professional Standards of Practice of Geology*" was presented to the Board of Professional Engineers, Land Surveyors and Geologists (BPELS0 Geologist and Geophysicist Technical Advisory Committee.
- As President of the American Association of Petroleum Geologists-Energy Minerals Division, the Executive Officer participated in APG's annual meeting recently held in



Long Beach, and as requested to serve as AAPG's spokesperson should there be media interest in hydraulic fracturing during the course of the meeting.

- Federal legislation considerations for 2012 include free-up of coal mine reclamation dollars for non-coal cleanups, among other considerations.

VII. Ex-Parte Communication Disclosure [Information]

[Board Members will identify any discussions they may have had requiring disclosure pursuant to Public Resources Code Sections 663.1 and 663.2.]

- Member John Lane participated on a panel at the recent The Sierra Fund conference held in Nevada City.

VIII. Good of the Meeting [Information]

[This time is scheduled to provide the public with an opportunity to address non-agenda items. Those wishing to speak should do so at this time. All persons wishing to address the SMGB should fill out a speaker card and present it to the Secretary so that the Chair can determine the number of persons who wish to speak. Speakers are limited to three minutes except by special consent of the Chairman.]

- Comment was received from Kenneth Johnston, Johnston Consulting.

IX. Consent Items [Action]

[All the items appearing under this section will be acted upon by the SMGB by one motion and without discussion; however, any Board member wishing to discuss a particular item may request the Chairman to remove the item from the Consent Calendar and consider it separately under Continued Business or New Business.]

1. Approval of Minutes, Committee of the State Mining and Geology Board, January 12, 2012, Regular Business Meeting.

Board Member Lane moved to approve the minutes. Board Member Wyatt seconded and the motion carried with a unanimous voice vote.

2. Approval of Minutes, March 8, 2012, Regular Business Meeting.

Deferred.

X. Continued Business [Action]

[These business items have been continued from a previous meeting/hearing.]

XI. New Business [Action]

3. Acceptance of California Geological Survey Special Report 199, Update of Mineral Land Classification for Portland Cement Concrete-Grade Aggregate in the Stockton-Lodi Production-Consumption Region, San Joaquin and Stanislaus Counties, California.

Executive Officer Testa stated that CGS Special Report 199 updates information previously published in 1988. At its September 13, 2007, regular business meeting, and as noted in the SMGB's Information Report 2008-05, CGS provided a schedule and prioritized program of current and planned activities for mineral land classification and associated projects. The update of the report for the Stockton-Lodi P-C Region was considered high priority. Currently, 232 million tons of currently permitted construction aggregate reserves are projected to last through the year 2033, 23



years from the present. An estimated 969 million tons of concrete aggregate resources are identified in the Stockton-Lodi P-C Region. This represents an increase in PCC-grade aggregate resources of about 403 million tons from the 566 million tons of PCC-grade aggregate resources designated in 1989. Anticipated consumption of construction aggregate in the Stockton-Lodi P-C Region for the next 50 years (through the year 2060) is estimated to be 687 million tons, of which 275 million tons must be concrete-grade. If a large scale construction project or catastrophic event (i.e, earthquake) requiring rebuilding were to happen in the P-C Region, existing reserves may be depleted sooner than projected. Should certain criteria be met, the State Geologist may recommend acceptance of the report by the SMGB. The SMGB is considering accepting the updated report CGS Special Report 199 for the classification of mineral resource land for this P-C region.

- CGS geologists John Clinkenbeard and Joshua Smith provided an overview of what sectors were being proposed for classification.

Board Member Lane moved to accept the report. Board Member Wyatt seconded and the motion carried with a unanimous voice vote.

4. **Public Hearing:** Public Hearing to Receive Comments on Preliminary Review Maps of Proposed Earthquake Fault Zones of March 7, 2012, for the Following Areas:

| | |
|-----------------|------------------|
| Hayward | Carrizo Mountain |
| Piru | Painted Gorge |
| Mecca | Plaster City |
| Mortmar | Coyote Wells |
| Orocopia Canyon | Yuha Basin |
| Salton | Mount Signal |
| Durmid | |

Executive Officer Testa stated that on March 7, 2012, CGS has announced release of thirteen Preliminary Map of Proposed Earthquake Fault Zones. Comments received by the SMGB will be transmitted to the State Geologist for consideration prior to the publication of the final maps for the following areas.

No comments received.

5. Consideration for Exemption from the Requirements of the Surface Mining and Reclamation Act (SMARA, Public Resources Code Section 2710 et seq.), Pursuant to Section 2714(f), for the Proposed Sand Creek Project, County of Colusa.

Executive Officer Testa states that SMARA allows for a one-time exemption from SMARA for certain surface mining operations should the Board finds that the operation is 1) of an infrequent nature, and 2) involve only minor surface disturbances – pursuant to PRC 2714(f). On April 19, 2012, Ryan Brown, Regulatory Biologist with Foothill Associates, and on behalf of Strain Orchards submitted a request for a one-time exemption from SMARA for the Proposed Sand Creek Project, located in Colusa County. The purpose of the project is to complete removal of accumulated material from Sand Creek to prevent overland flooding and minimize adverse impact on private property used for agricultural purposes. The proposed project includes the removal of approximately 30,000 cubic yards of sand and gravel that has accumulated in what is referred to as Sand Creek. Such accumulations occur about every 4 to 10 years, depending on precipitation, and should the accumulated material remain in place, substantial property damage and adverse impact to Interstate 5, a Union Pacific railway line, and Old Highway 99, all located immediately downstream, also



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occurs. Currently, the sand and gravel is stockpiled, but the property owner is prohibited from selling the material without coming under SMARA. The property owner has no desire to develop and operate a surface mining operation. The SMGB has the statutory authority to consider and grant such an exemption under certain conditions and is considering granting a one-time exemption for this project.

- Ryan Brown, Regulatory Biologist representing Strain Orchards, provided a synopsis of site conditions and the merits of the exemption request.

Board Member Gavric moved to grant the exemption. Board Member Lane seconded and the motion carried with a unanimous voice vote.

6. Issuance of a 45-Day Notice to Correct Deficiencies to the City of Oceanside Lead Agency Program Pursuant to the Surface Mining and Reclamation Act (SMARA).

Deferred.

7. Issuance of a 45-Day Notice to Correct Deficiencies to the County of Nevada Lead Agency Program Pursuant to the Surface Mining and Reclamation Act (SMARA).

Deferred.

8. Approval of Site Closure, Blue Point Clark Quarry (CA Mine ID No. 91-58-0015), Blue Point Partners (Operator), Brian Bisnett (Agent), County of Yuba.

Executive Officer Testa stated that the SMGB is the SMARA lead agency for Yuba County. On March 8, 2012, the SMGB moved to accept the 2011 SMARA Mine Inspection Report for the subject site, which concluded in part that all disturbed acreage appeared to be satisfactorily reclaimed, and consider approval of site closure for this surface mining operation. The Blue Point Clark Quarry was originally hydraulically mined for placer gold deposits during the 1800s. Since enactment of SMARA in 1976, the site was intermittently utilized as a small aggregate mining operation, which has been reclaimed by the current operator, and has been undergoing post-reclamation monitoring for the past three years.

Reclamation objectives for the Blue Point Clark Quarry included conversion of most of the site to historic basalt and cobble formation with a small area developed as a pond and grassland. During 2007 aggregate stockpiles, mining debris, and scrap equipment were removed from the eastern portion of the site, and all remaining post-SMARA areas of disturbance were re-contoured and hydroseeded. In addition, a small detention basin was developed to serve as a seasonal pond, and erosion control measures were installed. Finally, three historic mine drainage tunnel entrances existing on site were barricaded with wire fencing. Should the SMGB find that the site has been reclaimed in accordance with its approved reclamation plan, then SMGB staff will commence the process for release of the existing financial assurance mechanism.

- An overview of current site conditions was provided by the SMGB's inspector, Certified Engineering Geologist Will Arcand.

Board Member Wyatt moved to approve closure. Board Member Lane seconded and the motion carried with a unanimous voice vote.



9. Review and Establishment of the Board's Committees Pursuant to the Board's Bylaws (III Organization).

Executive Officer Testa indicated that the SMGB appoints committees to assist in its work. The existing four committees approved back in January are Geohazards, Minerals and Geologic Resources, Policy and Legislation and Surface Mining Standard. These committees present no conflicts with statute or the SMGB's bylaws, and in the view of the Executive Officer, remain valid. The review and establishment of SMGB committees are discretionary acts by the SMGB and its Chairman.

Following discussion, Acting Chair Baca Added Member Tom Barry to the Geohazards Committee, Member Reding to the Minerals and Geologic Resources Committee, Members Gavric and Lane to the Policy and Legislation Committee, and Member Barry to the Surface Mining Standards Committee. In addition, Member Wyatt was appointed Chair of the Minerals and Geologic Resources Committee, and John Lane was removed from such committee.

XII. Special Reports and Department Presentations [Possible Action]

[Based on these Reports, the Chair may instruct the SMGB staff to initiate administrative actions.

10. Report on the State Mining and Geology Board's Lead Agency Survey under the Surface Mining and Reclamation Act (SMARA).

Deferred.

11. Office of Mine Reclamation, Lead Agency Review Team (LART) Report for:

a. County of Colusa

Executive Officer Testa stated that the Department of Conservation, Office of Mine Reclamation (OMR) Lead Agency Review Team (LART) has completed its lead agency review report for the County of Colusa. Five of the 13 surface mining operations were visited. Notably, LART reports that no SMARA surface mining operation within the jurisdiction of the County has been inspected since 2003 (Deficiency No. 2). Other deficiencies included inadequate financial assurances (Deficiency No. 2), failure to issue a permit to mine (Deficiency No. 1), and failure to take any enforcement actions (Deficiency No. 4). LART is prepared to provide an overview of their review of the County's SMARA program. The Executive Officer has reviewed this report, and has made a recommendation for the SMGB to direct its Executive Officer to issue a 45-Day Notice to Correct Deficiencies to the County, in which case, a public hearing would be held to discuss this matter following 45 days of issuance of the Notice. Public Resources Code (PRC) Sections 2774.4(a) and (b) provide criteria to the SMGB when considering assumption, or restoration, of certain SMARA powers of a lead agency pursuant to PRC Section 2774.4(a). The SMGB will be considering whether it wishes to direct its Executive Officer to issue a 45-Day Notice to Correct Deficiencies to the County of Colusa.

- Ben Shelton with LART provided an overview of the SMARA program for the County of Colusa.



Board Member Gavric moved to direct the Executive Officer to issue a 45-Day Notice to Correct Deficiencies to the County of Colusa. Board Member Barry seconded and the motion carried with a unanimous voice vote.

12. Acceptance of Inspection reports pursuant to PRC Section 2774(b) for the following surface mining operations as being in accordance with the SMGB's requirements:

- Merrill Borrow Pit (CA Mine ID #91-02-0001), County of Alpine.
- Gansberg Sand (CA Mine ID #91-02-0002), County of Alpine.
- Diamond Valley Borrow Site (CA Mine ID #91-02-0004), County of Alpine.
- Fredericksburg Gravel Pit (CA Mine ID #91-02-0005), County of Alpine.
- Richmond (Chevron) Quarry (CA Mine ID #91-07-0006), City of Richmond.
- Pt. Richmond (Canal) Quarry (CA Mine ID #91-07-0007), City of Richmond.
- Lapis Sand Plant (CA Mine ID #91-27-0006), City of Marina.
- Santa Paula Materials (CA Mine ID #91-56-0034), City of Santa Paula.
- Western Aggregates (CA Mine ID #91-58-0001), County of Yuba.
- Cal Sierra Development (CA Mine ID #91-58-0003), County of Yuba.

Board Member Gavric moved to accept the inspection reports with exception to the report for the Santa Paula Materials. Board Member Barry seconded and the motion carried with a unanimous voice vote.

Board Member Lane moved to accept the inspection report for Santa Paula Materials. Board Member Gavric seconded and the motion carried with a unanimous voice vote, with Vice Chair Baca absent.

XIII. SMGB Committee Reports [Information and Possible Action]

- Geohazards Committee
 - Alquist-Priolo Technical Advisory Committee (Chairperson Tepel)
- Surface Mining and Standards Committee (Chairperson Lund)
- Minerals and Geologic Resources Committee (Chairperson Lane)
- Policy and Legislation Committee (Chairperson Baca)

No Committee reports provided.

XIV. Continuing Business [Information]

[This item is provided as an opportunity for any SMGB member to receive information on or any items of continuing interest to the SMGB.]

No continued business discussed.



XV. New Business [Information]

[This item is provided as an opportunity for any SMGB member to bring any item of new business to the SMGB's attention for further discussion and further action.] Items to be discussed:

New business offered for discussion at a future meeting included topics pertaining to Ex Parte communications, Bagley-Keene Open-Meeting considerations, Mineral Resources Zone-2 (MRZ-2) with an invitation to CGS to participate in such discussions, and limitations placed on the use of state highways for the transportation of aggregate.

XVI. Executive Session (Closed to the Public) [Possible Action]

[The SMGB will discuss information from its legal counsel on pending litigation and may take appropriate actions based on this information. This session is being held under Government Code, Section 11126.] Items to be discussed:

- a). Brunius vs. SMGB, Case # PC 20010449, El Dorado County Superior Court.
- b). Kibbe Area Planning and Protection Association; Forest Tull vs. SMGB; A. Teichert & Sons, Inc.; and DOES 1010, Case No. 34-2007-00882657-CU-WM-GOS, Sacramento County Superior Court.
- c). Dutra Materials vs. SMGB, Chevron Products Company Real Party in Interest, Case No. N10-0388, Contra Costa Superior Court.
- d). A. Teichert and Sons, Inc. v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000528, Sacramento County Superior Court.
- e). William Calvert, Elfriede Calvert and the Yuba Goldfields Access Coalition v. SMGB, Western Aggregates, LLC. Real Party in Interest, Case No. 34-2010-80000530, Sacramento County Superior Court.
- f). North Continent Land and Timber, Inc. vs. SMGB, Department of Conservation, Office of Mine Reclamation, County of Butte Board of Supervisors, Case No. 34-2010-800000542, Sacramento County Superior Court.
- g). Joe & Yvette Hardesty v. SMGB, & DOES 1-100 Inclusive, Case No. 34-2010-80000594, Sacramento County Superior Court.
- h). An un-named case where there is potentially significant exposure to litigation against the SMGB.

Re-open Regular Business Session, Announce Results of Executive Session

Deputy Attorney Rick Thalhammer announced that the SMGB met in Executive session and took no action.

XVII. Announcements of Future Meetings

June 14, 2012, was announced as the next meeting, and the City of Sacramento as the location. No meeting will be held in July, with the next meeting scheduled for August 9, 2012.

XVIII. Adjournment

The meeting was adjourned at 4:00 P.M.

APPROVED

Brian Baca, Acting Chairman

Stephen M. Testa, Executive Officer

